

**OFFICIAL FILE  
ILLINOIS COMMERCE COMMISSION**

**ORIGINAL**

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

ILLINOIS  
COMMERCE COMMISSION

JAN 5 9 40 AM '00

**Net66**

-vs-

**GTE North Incorporated and  
GTE South Incorporated**

Complaint as to fraudulent billing  
of repair charges, fraudulent  
billing of install charges in Central  
Illinois

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Docket No. 00-0167

CHIEF CLERK'S OFFICE

**GTE'S ANSWER AND COUNTERCLAIM TO COMPLAINT**

1. GTE North Incorporated and GTE South Incorporated (collectively, "GTE"), by its attorneys, hereby submits its Answer and Counterclaim to the Complaint filed by Net66.

1. On virtually all digital circuits we have purchased, we have selected 12 mo term w/no install charge. In virtually every case, GTE has nevertheless billed us \$900 install charge. This pattern of behavior suggests an organized effort to defraud consumers.

**ANSWER:** GTE admits that Net66 has selected 12 month terms on many digital circuits ordered by Net66. GTE denies that in virtually every case, it has billed Net66 a \$900 install charge. GTE denies that it has engaged in a pattern of behavior suggesting an organized effort to defraud consumers. Further answering, Net66 has engaged in a practice of ordering 12 month term digital circuits and canceling such 12 month terms prior to the expiration of the full 12 months, thereby constructively avoiding the installation charges imposed by GTE's tariffs. In some instances, due to computerized billing, GTE has billed Net66 an install charge on 12 month digital

circuits. However, GTE has promptly credited the install charge for legitimate 12 month term digital circuits after being notified of same by Net66.

2. We have been billed \$625 x 2 for repairs which were not due to CPE failure as GTE claims.

**ANSWER:** Documents produced by Net66 in response to data requests from GTE show only one \$625 repair charge (on October 2, 1999) for Billing Account No. M10EAP5879113. Admitted that GTE billed Net66 \$625.00 for repair charges (on October 2, 1999) for Billing Account No. M10EAP5879113. Denied that the repairs were not due to CPE failure. Further answering, Dennis Toeppen of Net66 reported technical problems on Billing Account No. M10EAP5879113 on or about October 2, 1999. A GTE technician was dispatched by GTE and determined that the source of the problem was equipment owned by Net66. Subsequently, GTE properly billed Net66 for appropriate repair charges, consistent with GTE's tariffs.

### **COUNTERCLAIM**

3. Counter-Complainant GTE, by its counsel, allege the following Counterclaim against Counter-Respondent Net 66 ("Net66"). As alleged in more detail below, Net66 has improperly refused to timely pay fees and charges on its numerous business accounts serviced by GTE. GTE is entitled to recover the full amount of the past-due charges owed by Net66.

4. Counter-Complainant GTE is a "telecommunications carrier" within the meaning of Section 13-202 of the Act, 220 ILCS 5/13-202, *et. seq.*, is duly authorized to conduct business in the State of Illinois and is engaged in the business of providing telecommunications services to customers within certain certificated areas of the State of Illinois.

5. Counter-Respondent Net66 is, on information and belief, an Illinois corporation transacting business in the State of Illinois. On information and belief, Net66 is an Internet Service Provider ("ISP").

6. Net66, in the conduct of its ISP business, purchases numerous telecommunications services from GTE.

7. Net66 has engaged in a practice of frivolously contesting numerous fees and charges billed by GTE to Net66's various business accounts. Net66 has also verbally harassed and threatened numerous GTE employees.

8. Net66 has also engaged in a practice of refusing to pay proper fees and charges billed to its various business accounts. By way of example, as of May 7, 2000, Net66 had incurred a total of \$35,893.50 in past-due charges ("Past-Due Charges") and a total of \$19,297.93 in current charges from GTE.

9. Although Net66 has disputed in its Formal Complaint in this Docket a total of approximately \$3,400.00 related to its Past-Due Charges, there remains due and owing to GTE a sum of \$32,493.50.00 (excluding the disputed amount) in Past-Due Charges, none of which has been formally disputed by Net66. Nevertheless, Net66 continues to refuse to pay the Past-Due Charges.

10. Net66 has admitted that the disputes between it and GTE are greater in scope than the basic allegations of Net66's Complaint. The Commission should avoid a piecemeal approach to the disputes between GTE and Net66 and should address in this Docket the issue of whether GTE is entitled to recover its Past-Due Charges from Net66. Such a consolidated approach would also aid the interests of administrative economy.

WHEREFORE, GTE respectfully requests that the Illinois Commerce Commission deny the Complaint filed by Net66 in its entirety and grant GTE's Counterclaim, in its entirety.

Dated: June 2, 2000

Respectfully submitted,

GTE NORTH INCORPORATED and  
GTE SOUTH INCORPORATED

By: 

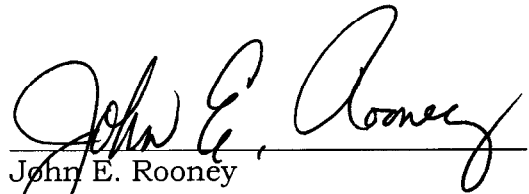
One of Their Attorneys

John E. Rooney  
Ross E. Kimbarovsky  
Hopkins & Sutter  
Three First National Plaza, Suite 4100  
Chicago, Illinois 60602  
(312) 558-6600

STATE OF ILLINOIS     )  
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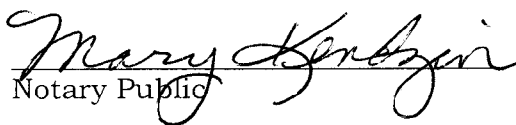
**VERIFICATION**

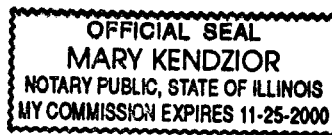
I, John E. Rooney, being first duly sworn, state that I am an attorney for GTE North Incorporated and GTE South Incorporated, that I am authorized to make this Verification on their behalf, that I have read GTE's Answer and Counterclaim to Complaint, that I have knowledge of the facts stated therein, and that the same are true and correct to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
John E. Rooney

Attorney for GTE North Incorporated  
and GTE South Incorporated

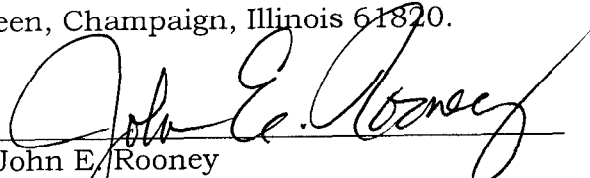
SUBSCRIBED and SWORN to before  
me this 2nd day of June, 2000.

  
\_\_\_\_\_  
Notary Public



**CERTIFICATE OF SERVICE**

I, John E. Rooney, an attorney, do hereby certify that on June 2, 2000, I deposited a copy of GTE's Answer And Counterclaim to Complaint in the U.S. Mail to be served to Dennis Toeppen, Net66, 313 E. Green, Champaign, Illinois 61820.

  
\_\_\_\_\_  
John E. Rooney

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

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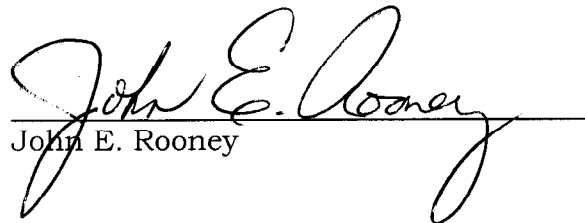
**NOTICE OF FILING**

TO: Dennis Toeppen  
Net66  
313 East Green  
Champaign, IL 61820

PLEASE TAKE NOTICE that on this date we have filed, by Federal Express, with the Chief Clerk of the Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois 62701, GTE's Answer and Counterclaim to Complaint in this Docket.

Dated: June 2, 2000

John E. Rooney  
Ross E. Kimbarovsky  
HOPKINS & SUTTER  
Three First National Plaza  
Suite 4100  
Chicago, Illinois 60602  
(312) 558-6600

  
John E. Rooney